

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

LITERATI, LLC,

Plaintiff/Counterclaim
Defendant

v.

LITERATI, INC.,

Defendant/Counterclaimant

Civil Action No. 20-cv-12764

Honorable George Caram Steeh
Magistrate Judge Elizabeth A. Stafford

**JOINT STIPULATION DISMISSING
PLAINTIFF'S SECOND, TENTH, ELEVENTH, AND THIRTEENTH
AFFIRMATIVE DEFENSES**

On January 19, 2021, Defendant informed Plaintiff that it intended to file, under Federal Rules of Civil Procedure 12(f) and 9(b), a motion to strike four of Plaintiff's affirmative defenses to Defendant's counterclaims. Specifically, Defendant intended to move to strike Plaintiff's second, tenth, eleventh, and thirteenth affirmative defenses, quoted below for reference:

2. Defendant's claims are barred, in whole or in part, under the applicable statute or statutes of limitations.

10. Defendant's claims are barred, in whole or in part, by the Lanham Act.

11. Defendant's claims are barred, in whole or in part, because the PTO has not granted it the requested marks.

13. Defendant's alleged Acquired marks were obtained fraudulently.

ECF No. 17, PageID.224–25 (italics added).

After conferring on Defendant's proposed motion under Local Rule 7.1(a), Plaintiff disagrees that striking the defenses is warranted, but has stipulated that it will voluntarily dismiss the four defenses at this time. The parties further stipulate that the dismissal is without prejudice to Plaintiff's ability to re-plead or otherwise assert one or more of the second, tenth, eleventh or thirteenth affirmative defenses in the event the factual record in the case develops to warrant such re-pleading or assertion, as appropriate under the rules and subject to Defendant's right to object under the rules.

IT IS SO ORDERD.

Dated: January 28, 2021

s/George Caram Steeh
GEORGE CARAM STEEH
United States District Judge

IT IS SO STIPULATED and AGREED.

/s/ Angela L. Jackson

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